

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF EASY TELEPHONE	)	
SERVICE COMPANY D/B/A EASY WIRELESS	)	CASE NO.
FOR DESIGNATION AS AN ELIGIBLE	)	2011-00137
TELECOMMUNICATIONS CARRIER ON A	)	
WIRELESS BASIS (LOW INCOME ONLY)	)	

O R D E R

On April 15, 2011, Easy Telephone Service Company d/b/a Easy Wireless (“Easy Wireless”), a Commercial Mobile Radio Service (“CMRS”) resale provider, filed a petition under 47 U.S.C. § 214(e)(2) seeking designation as an Eligible Telecommunications Carrier (“ETC”) to receive federal universal service support in Kentucky.<sup>1</sup> Easy Wireless provides service using Sprint as its underlying carrier.<sup>2</sup> Easy Wireless seeks ETC designation only for the purposes of participation in the Lifeline Program. Easy Wireless does not seek high-cost support.

The petition states that: (1) Easy Wireless meets all the requirements for designation as an ETC to serve the designated areas in the state of Kentucky;<sup>3</sup> (2) Easy Wireless requests designation throughout each of the designated areas within its

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<sup>1</sup> Easy Wireless requests ETC designation throughout its entire service area. Petition at 1.

<sup>2</sup> Petition at Footnote 1.

<sup>3</sup> Id. at 5-7.

service coverage;<sup>4</sup> (3) in accordance with 47 U.S.C. § 214(e)(2), Easy Wireless seeks to be designated as an ETC in rural and non-rural wirecenters;<sup>5</sup> and (4) designation of Easy Wireless as an ETC for the designated areas served in Kentucky will serve the public interest.<sup>6</sup>

Easy Wireless's Lifeline service offering will provide customers with the same features and functionalities enjoyed by all other Easy Wireless prepaid customers. Easy Wireless's Lifeline service customers will receive a free handset and a minimum of 100 anytime prepaid minutes per month at no charge. Customers may use their minutes to place domestic long distance calls at no additional charge. In addition to voice services, prepaid Lifeline customers also will have access to a variety of other standard features at no additional charge, including voice mail, three-way calling, caller I.D. and call waiting services. Easy Wireless does decrement minutes for incoming text messages or calls placed to Easy Wireless customer service but does not charge for calls to 911 emergency services.<sup>7</sup> Easy Wireless customers will be able to send and receive text messages at a rate of 0.3 minutes per text.<sup>8</sup> Unused minutes do roll over month-to-month for a 90-day period. On the ninety-first day unused minutes will expire.

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<sup>4</sup> Id. at 4-5.

<sup>5</sup> Id. at 4.

<sup>6</sup> Id. at 13-15.

<sup>7</sup> Easy Wireless's response to Commission Staff's First Data Request, No. 23.

<sup>8</sup> Easy Wireless's response to Commission Staff's First Data Request, No. 21.

If the customer uses his or her minutes and decides to purchase additional minutes, purchased minutes are available for 30 days from the date of purchase.<sup>9</sup>

Easy Telephone will allow customers to sign up for wireless service through two methods. The first is by calling customer service and providing information to have an activated handset mailed to their residence. The second is by attending large outreach events in the customer's area at which the customer will receive an activated handset prior to leaving the event. Through either method, the customer will be required to complete a Lifeline Certification form and show proof of eligibility before the handset is delivered to him or her.<sup>10</sup>

In an effort to prevent waste, fraud, and abuse of the program, Easy Wireless has implemented the following non-usage policy: If the customer does not use his and her service for a period of 60 days, the company will call, text, and follow up with a letter to the customer to ensure the customer would still like to keep the service. If the customer does not respond and still shows no usage, the company will suspend the customer's service and will not claim Universal Service Funds ("USF") on this customer. While suspended, the customer will still have access to 911 services.<sup>11</sup>

Easy Wireless has stated in its responses to the Commission's data requests that it will submit to the Commission the Kentucky USF fee and Kentucky Telecommunications Relay Service and Telecommunications Access Program fee for each customer, although not billed directly to the customer because the customers do

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<sup>9</sup> Easy Wireless's response to Commission Staff's First Data Request, No. 22.

<sup>10</sup> Easy Wireless's response to Commission Staff's First Data Request, No. 3.

<sup>11</sup> Id. at Request No. 25.

not receive bills.<sup>12</sup> Easy Wireless also states that it will remit the statewide wireless 911 fee to the CMRS Board.<sup>13</sup>

Easy Wireless, also in response to the Commission's data requests, states that it will not be seeking funding from the Kentucky USF, and it will not be seeking reimbursement from the Federal USF for toll limitation service.<sup>14</sup>

On July 29, 2011, the Commission issued an information request to Easy Wireless. Easy Wireless filed its response on August 10, 2011. No party has requested a hearing in this matter and the Commission finds that this matter is now ripe for a decision.

#### DISCUSSION

Pursuant to 47 U.S.C. § 254(e), "only an eligible telecommunications carrier designated under 47 U.S.C. § 214(e) shall be eligible to receive specific federal universal service support." Pursuant to 47 U.S.C. § 214(e)(1), a common carrier designated as an ETC must offer and advertise the services supported by the federal universal service mechanisms throughout the designated service area.

Pursuant to 47 U.S.C. § 214(e)(2), state commissions bear the primary responsibility for performing ETC designations. Under the same section, the Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases, designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience, and necessity,

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<sup>12</sup> Id. at Request Nos. 5 and 6.

<sup>13</sup> Id. at Request No. 7.

<sup>14</sup> Id. at Request Nos. 12 and 15.

as long as the requesting carrier meets the requirements of 47 U.S.C. § 214(e)(1). Also, before designating an additional ETC for an area served by a rural telephone company, the Commission must determine that the designation is in the public interest.

As outlined in 47 C.F.R. § 54.201(d), an ETC petition must contain the following: (1) A certification that the petitioner offers or intends to offer all services designated for support by the Commission pursuant to 47 U.S.C. § 254(c); (2) A certification that the petitioner offers or intends to offer the supported services “either using its own facilities or a combination of its own facilities and resale of another carrier’s services;” (3) A description of how the petitioner “advertise[s] the availability of [supported] services and the charges therefore [sic] using media of general distribution;” and (4) If the petitioner meets the definition of a “rural telephone company” pursuant to 47 U.S.C. § 153(37), the petitioner must identify its study area; or, if the petitioner is not a rural telephone company, it must include a detailed description of the geographic service area for which it requests an ETC designation from the Commission.

#### OFFERING THE SERVICES DESIGNATED FOR SUPPORT

Easy Wireless has demonstrated through the required certifications and related filings that it now offers, or will offer upon designation as an ETC, the services supported by the federal universal service mechanism. Easy Wireless certifies that it now provides or will provide throughout its designated service area the services and functionalities enumerated in 47 C.F.R. § 54.101(a). Easy Wireless has also certified that it will make available and advertise Lifeline service to qualifying low-income consumers in compliance with 47 C.F.R § 54.405.

## OFFERING THE SUPPORTED SERVICES USING A CARRIER'S OWN FACILITIES

Consistent with the requirements of the 1996 Act, 47 U.S.C. § 214 (e)(6), and Sections 54.101 through 54.207 of the Federal Communication Commission ("FCC") Rules, Easy Wireless, in its provision of wireless services, will rely on a combination of resold wireless services and company-owned facilities, thus allowing Easy Wireless to meet the FCC's test that requires an ETC to provide services, at least in part, through a "combination of its own facilities and resale of another carrier's services." Easy Wireless owns and operates a Class 5 central office switch in Boca Raton, Florida and Easy Wireless's wireless directory assistance traffic for Kentucky customers will be switched through that facility. That arrangement allows Easy Wireless to select from alternative wholesale providers of directory assistance services and route traffic economically. As a result, Easy Wireless is able to offer directory assistance to prepaid customers at no expense other than for regular minutes of use.

Easy Wireless obtains wholesale services of CMRS providers. Through these arrangements, Easy Wireless is able to offer all of the services and functionalities supported by the universal service program, as detailed in Section 54.101 (a) of the FCC Rules, throughout its service area.

Easy Wireless's Florida-based facilities are co-located with other carriers' facilities and provide Easy Wireless the ability to route directory assistance services, which are among the supported services. Easy Wireless states that it intends to provide the supported services using its switching facility and resold CMRS.

As discussed previously in this Order, 47 C.F.R. § 54.201(d) defines the requirements that a carrier must fulfill in order to be granted ETC status. Under Section (d), the carrier must provide the supported services by "either using its own facilities or a

combination of its own facilities and resale of another carrier's services (including the services offered by another eligible telecommunications carrier)." The next section, 47 C.F.R. § 54.201(e), defines the term "facilities" to mean "any physical components of the telecommunications network that are used in the transmission or routing of the service that are designated for support pursuant to subpart B of this part." 47 C.F.R. § 54.201(f) provides that "the term 'own facilities' includes, but is not limited to, facilities obtained as unbundled network elements pursuant to part 51 of this chapter, provided that such facilities meet the definition of the term 'facilities' under this subpart."<sup>15</sup> The Commission finds that Easy Wireless has demonstrated that it satisfies the requirement of 47 U.S.C. § 214(e)(1)(a) that it offer the supported services using either its own facilities or a combination of its own facilities and resale of another carrier's services.

#### ADVERTISING SUPPORTED SERVICES

Easy Wireless has demonstrated that it satisfies the requirement of 47 U.S.C. § 214(e)(1)(b) to advertise the availability of the supported services and the charges therefor using media of general distribution. In its petition, Easy Wireless states that it will publicize the availability of Lifeline and Link-Up in a manner reasonably designed to reach those likely to qualify for those services, as required by 47 C.F.R. §§ 54.405(b) and 54.411(d). Easy Wireless shall also advertise each of the supported services on a regular basis in newspapers, magazines, television, and radio, in accordance with 47 C.F.R. § 54.201(d)(2).

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<sup>15</sup> See, e.g., 47 C.F.R. §§ 51.307-51.318, which outline the requirements for carrier access to and use of unbundled network elements.

## RURAL AND NON-RURAL STUDY AREAS

The FCC has previously found designation of additional ETCs in areas served by non-rural telephone companies to be in the public interest based upon a demonstration that the requesting carrier complies with the statutory eligibility obligations of 47 U.S.C. § 214(e)(1).<sup>16</sup>

### Rural Study Areas

In considering whether designation of Easy Wireless as an ETC in areas served by rural telephone companies will serve the public interest, the Commission must consider whether the benefits of an additional ETC in such study areas outweigh any potential harm. In determining whether designation of a competitive ETC in a rural telephone company's service area is in the public interest, the Commission must weigh the benefits of increased competitive choice, the impact of the designation on the USF, the unique advantages and disadvantages of the competitor's service offering, any commitments made regarding quality of telephone service, and the competitive ETC's ability to satisfy its obligation to serve the designated service areas within a reasonable time frame.

The Commission finds that Easy Wireless's universal service offering will provide a variety of benefits to customers. For instance, Easy Wireless has committed to provide customers access to telecommunications and data services when they do not have access to a wireline telephone. In addition, the mobility of Easy Wireless's wireless service will provide benefits such as access to emergency services that can

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<sup>16</sup> See, e.g., Cellco Partnership d/b/a Bell Atlantic Mobile Petition for Designation as an Eligible Telecommunications Carrier, Memorandum Opinion and Order, CC Docket No. 96-45, 16 FCC Rcd 39 (2000).

mitigate the unique risks of geographic isolation associated with living in rural communities. Moreover, Easy Wireless states that it offers larger local calling areas than those of the Incumbent Local Exchange Carriers it competes against, which could result in fewer toll charges for Easy Wireless's customers.

#### Public Interest Analysis

In determining whether the public interest is served, the burden of proof is upon the ETC applicant.<sup>17</sup> Easy Wireless asserts that granting ETC designation to Easy Wireless will provide consumers the benefits of value for their money; access to emergency services on wireless devices; and reliable means of contact for prospective employers, social service agencies or dependents. Easy Wireless also asserts that providing Lifeline service to those most in danger of losing wireless service promotes the public interest. Easy Wireless has satisfied the burden of proof in establishing that its universal service offering in this area will provide benefits to rural consumers.

#### Designated Service Areas

The Commission finds that Easy Wireless should be certified as an ETC in the requested service areas served by rural and non-rural telephone companies that correspond to the wireless licenses of Sprint. For purposes of federal universal service obligations, a rural telephone company's study area is presumed to be its service area unless and until the FCC and state commission cooperatively establish a different service area definition for such company after considering the Federal-State Joint Board on Universal Service's ("Joint Board") service area recommendations.<sup>18</sup> Therefore, if a

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<sup>17</sup> See Highland Cellular Order, 19 FCC Rcd at 6431, para. 20; Virginia Cellular Order, 19 FCC Rcd at 1574-75, para. 26.

<sup>18</sup> 47 U.S.C. § 214(e)(5); 47 C.F.R. § 54.207(b).

state commission proposes to define a rural telephone company study area as something less than the company's entire service area, the state commission must consider and make findings with respect to each of the three Joint Board factors.

However, because Easy Wireless is only requesting low-income support, the Commission finds that the study areas of the affected rural telephone companies do not have to be redefined to match the licensed service area of the applicant.

#### ANNUAL CERTIFICATION AND VERIFICATION

Each year, Easy Wireless will require each Lifeline subscriber to recertify his or her head of household status, certify that only one Lifeline discount is received at that household, and document his or her continued program eligibility for Lifeline in accordance with the annual Lifeline Certification and Verification for USAC that is due annually at the end of August and in accordance with Kentucky Public Service Commission Administrative Case No. 360.<sup>19</sup> The Commission finds that Easy Wireless's plan to meet the annual certification and verification requirements is in accordance with the Commission's requirements.

The Commission, having reviewed the evidence of record and being otherwise sufficiently advised, HEREBY ORDERS that:

1. Easy Wireless is designated as an ETC for the purpose of offering Lifeline and Link-up service only in the exchanges of the non-rural and rural telephone companies that correspond to the wireless licenses of Sprint.

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<sup>19</sup> Administrative Case No. 360, An Inquiry Into Universal Service and Funding Issues (Ky. PSC May 24, 2007).

2. During the current certification period, Easy Wireless shall be eligible to receive federal USF Support for Lifeline and Link-Up.

3. Easy Wireless shall offer low-income universal support services to consumers in its service area.

4. Easy Wireless shall offer these services using its own facilities or a combination of its own facilities and resale of another carrier's services, including the services offered by another ETC.

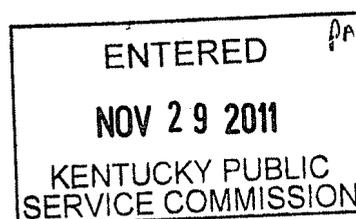
5. Pursuant to 47 C.F.R. § 54.201(i), Easy Wireless shall be precluded from offering universal service support exclusively through the resale of another carrier's services.

6. Easy Wireless shall advertise the availability of and charges for these services using media of general distribution.

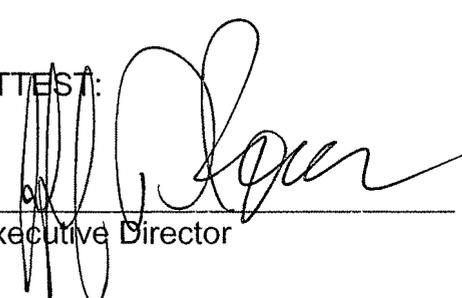
7. Easy Wireless shall comply with the Commission's annual certification process for Lifeline customers in accordance with the requirements of Administrative Case No. 360.

8. A copy of this Order shall be served upon the FCC and the Universal Service Administrative Company.

By the Commission



ATTEST:

  
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